

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2021- 23- C

May 11, 2021

In the Matter of)	
)	
Joint Application of Charter Fiberlink SC-)	
CCO, LLC and Time Warner Cable)	
Information Services (South Carolina), LLC)	
for Designation as Eligible)	
Telecommunications Carriers to Receive)	
Rural Digital Opportunity Fund Auction)	
(Auction 904) Support for Voice and)	
Broadband Services and Request for)	
Expedited Consideration)	
)	STIPULATION

This Stipulation is made by and among the South Carolina Office of Regulatory Staff ("ORS") and Charter Fiberlink SC-CCO, LLC and Time Warner Cable Information Services (South Carolina), LLC ("Joint Applicants") (collectively referred to as the "Parties" or sometimes individually as a "Party").

Whereas, the Joint Applicants are seeking designation as Eligible Telecommunications Carriers ("ETC") in the 11,936 awarded census blocks located in 41 Counties in South Carolina, as such census blocks are currently constituted or as they may be modified by the FCC in the future (hereinafter the "RDOF Census Blocks"),¹ in order to receive federal universal service support under Sections 214 and 254 of the Federal Telecommunications Act of 1996 and pursuant to the

¹ To the extent the FCC modifies the RDOF Census Blocks eligible for RDOF Phase I support, the Joint Applicants will file notice of such modified RDOF Census Blocks with the Commission along with supporting documentation in Docket No. 2021-23-C.



Federal Communications Commission's ("FCC") Rural Digital Opportunity Fund Phase I Auction (Auction 904);²

Whereas, the Joint Application was filed pursuant to § 214(e) of the Communications Act of 1934, and the rules and regulations of the Public Service Commission of South Carolina ("Commission") and the FCC;

Whereas, ORS is a statutory party to this action. See S.C. Code Ann. § 58-4-10(B);

Whereas, no other comments or petitions to intervene were received in response to the notice of filing;

Whereas, in support of the Joint Application and request for expedited review of this matter, the Joint Applicants have filed an Affidavit attesting to the truth and accuracy of the Joint Application and verified testimony of Michael A. Chowanec, Vice President, State Government Affairs at Charter Communications, Inc.;

Whereas, the Joint Applicants seek a waiver of S.C. Code Ann. Regs. 103-690.C.(a)(1)(B), the Commission's requirement for submitting a two-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis, or on a cell site-by-cell site basis if the applicant is a wireless carrier, throughout its proposed ETC designated service area;

Whereas, the Joint Applicants seek a waiver of S.C. Code Ann. Regs. 103-690.C.(a)(5), the Commission's requirement for an affidavit acknowledging that the FCC may require the Joint Applicants to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area;

² See *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021*, Public Notice, DA 20-1422 (Dec. 7, 2020).

Whereas, the Joint Applicants seek a waiver of S.C. Code Ann. Regs 103-690.C.(b), to the extent it would prohibit the designation of the Joint Applicants as an ETC in an area smaller than a wire center;

Whereas, the FCC released *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Inter-carrier Compensation Regime; Federal-State Joint Board*, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (FCC Oct. 27, 2011) ("USF/ICC Transformation Order") in an effort to comprehensively reform and modernize the high cost program within the universal service fund and the inter-carrier compensation system to reposition support for networks capable of providing both voice and broadband services and created the Rural Digital Opportunity Fund ("RDOF");

Whereas, the FCC identified census blocks in price cap carriers' service areas in incumbent markets which were unserved, and which could be served by the Joint Applicants by constructing new facilities funded, in part, by the federal RDOF program;

Whereas, CCO Holdings, LLC, a subsidiary of Charter Communications, Inc and an affiliate of the Joint Applicants, participated in the RDOF Auction, and the FCC awarded support to CCO Holdings, LLC through the competitive bidding process;

Whereas, CCO Holdings, LLC was among the provisional winning bidders and assigned to the Joint Applicants \$112,433,940.10 in RDOF support funds to be disbursed over a ten-year period to build a network capable of providing gigabit tier broadband service in the designated RDOF Census Blocks throughout South Carolina upon completion of certain post-auction requirements;



Whereas, one of these requirements is for the Joint Applicants to be designated as ETCs in each state that the Joint Applicants receive RDOF support in the funded areas by June 7, 2021;

Whereas, 47 C.F.R. § 54.101(a) defines voice telephony services eligible for universal service support as services that provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in subpart E of this part;

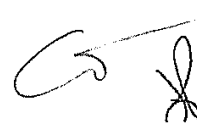
Whereas, the FCC does not require the Joint Applicants to submit a five-year plan for proposed network improvements and upgrades and no longer requires ETCs to provide equal access;

Whereas, the FCC has adopted more specific measures to track deployment, including annual reporting of service to geocoded locations and certifications of compliance with benchmark milestones, and provided a "more defined yardstick by which to measure their progress towards the universal availability of voice and broadband service" in winning bidders' designated service areas;

Whereas, the Joint Applicants are required to maintain a functional network in emergency situations;³

Whereas, the Joint Applicants are required to commit to objective measures to protect consumers;

³ This requirement is fully met by compliance with the requirements of 47 C.F.R. § 54.202(a)(2) and Commission Regulation 103-690.C.(a)(2).



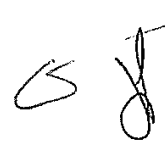
Whereas, the Joint Applicants are required to offer local usage plans comparable to the one offered by the incumbent in the service areas for which the Joint Applicants seek designation, in compliance with Commission Regulation 103-690.C.(a)(4);

Whereas, the FCC has undertaken a granular analysis, at the census block and location levels, which are smaller areas than the wire center level, to target funding to unserved areas and the Joint Applicants seek a waiver of Commission Regulation 103-690.C.(b) to the extent it would prohibit ETC designation in the RDOF Census Blocks;

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

1. As ETCs in the RDOF Census Blocks, the Joint Applicants agree to provide voice and broadband service pursuant to Section 214(e)(1) of the Communications Act of 1934, as amended, and Section 54.201(d) of the rules of the FCC which require ETCs to, throughout their service areas for which designation is received, (1) offer the services supported by federal universal service support mechanisms, (2) either using their own facilities or a combination of their own facilities and resale of another carrier's services, and to (3) advertise the availability of such services and the charges using media of general distribution.⁴
2. As ETCs in the RDOF Census Blocks, the Joint Applicants agree that they must offer the service that is supported by universal support mechanisms, which is voice telephony

⁴ The RDOF-supported voice and broadband services in South Carolina are required to be offered in the RDOF Census Blocks after construction of Joint Applicants' underlying network facilities and such facilities are available for commercial use, but not later than as required by the FCC service milestones codified in 47 C.F.R. § 54.802(c). Joint Applicants will provide such voice and broadband services in the RDOF Census Blocks subject to the RDOF program rules, applicable Commission orders, rules and regulations, and other applicable laws, as well as Joint Applicants' own service terms and policies to the extent they do not conflict with state and federal laws, which may change in accordance with applicable law.



and broadband service as defined in Section 54.101 of the FCC's Rules, either through their own facilities or a combination of their own facilities and resale of another carrier's facilities in areas where they seek ETC designation.

3. As ETCs in the RDOF Census Blocks, the Joint Applicants agree to provide voice grade access to their customers through interconnection of the Joint Applicants' facilities and the public switched telephone network.
4. As ETCs in the RDOF Census Blocks, the Joint Applicants agree that they will offer federal Lifeline discounts to qualifying customers and comply with federal Lifeline requirements in fulfillment of the requirement that ETCs offer federal Lifeline discounts to qualifying customers and to offer toll limitation service at no charge to qualifying customers in the funded areas, unless the Lifeline service does not distinguish between toll and non-toll calls in the pricing of the service.
5. As ETCs in the RDOF Census Blocks, the Joint Applicants agree that voice telephony services must provide access to emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in the ETC's designated service area has implemented 911 or enhanced 911 systems for their customers in remote and currently unserved portions of the RDOF Census Blocks for which the Joint Applicants seek ETC designations.
6. As ETCs in the RDOF Census Blocks, the Joint Applicants agree to provide ORS with the FCC's list of census blocks and the estimated cost to construct network facilities in the RDOF Census Blocks within seven days of receiving ETC designation. It is understood and acknowledged by both Parties that the list of RDOF Census Blocks may change.



7. As ETCs in the RDOF Census Blocks, the Joint Applicants agree to provide estimated timelines for deployment in each census block it proposes to serve.⁵
8. As ETCs in the RDOF Census Blocks, the Joint Applicants and/or their affiliates agree to offer a Lifeline Broadband service in each RDOF Census Block upon completion of construction and availability of the underlying network facilities in that census block.
9. As ETCs in the RDOF Census Blocks, the Joint Applicants will advertise in the RDOF Census Blocks, their service offerings supported by federal universal service support mechanisms in a manner that is designed to fully inform potential customers of the supported services available to them, to disclose all associated rates, and to ensure that qualifying low-income individuals are informed about the availability and cost of Lifeline service.
10. As ETCs in the RDOF Census Blocks, the Joint Applicants, pursuant to FCC regulations, must in the RDOF Census Blocks: (1) certify that they will comply with the service requirements applicable to the support that the Joint Applicants receive; (2) demonstrate their ability to remain functional in emergency situations; (3) demonstrate that they will satisfy consumer protection and service quality standards.
11. As ETCs in the RDOF Census Blocks, the Joint Applicants agree to report to the Commission on a quarterly or an annual basis the number of unfulfilled requests for service in the RDOF Census Blocks, as required by S.C. Code Regs. 103-690.1(b)(3). As ETCs in the RDOF Census Blocks, the Joint Applicants certify that they will comply with the service requirements applicable to the supported voice services that they will

⁵ Upon execution of this Stipulation, the Joint Applicants will provide ORS with the Project Plan from Charter's FCC Long Form Application (Form 683) for South Carolina.



be offering in the RDOF Census Blocks, including the requirements of the RDOF program.

12. As ETCs in the RDOF Census Blocks, the Joint Applicants commit to making available to the Commission and ORS all reports they are required to file with the FCC in connection with RDOF Phase I funding for the RDOF Census Blocks.
13. As ETCs in the RDOF Census Blocks, the Joint Applicants agree that their voice and broadband network in the RDOF Census Blocks (i) is designed to remain functional in emergency situations and that all switching facilities are equipped with independent power generators and sufficient fuel to operate for several days to mitigate commercial power outages, (ii) is able to reroute traffic around damaged facilities, (iii) is capable of managing traffic spikes resulting from emergency situations and (iv) complies with applicable FCC backup power requirements.⁶
14. As ETCs in the RDOF Census Blocks, the Joint Applicants certify that they will, in the RDOF Census Blocks, comply with applicable service quality standards and consumer protection rules, such as the Lifeline service standards set forth at 47 C.F.R. § 54.408, and the minimum broadband speed, data usage allowance, and accessibility to WIFI device requirements set forth therein.
15. As ETCs in the RDOF Census Blocks, the Joint Applicants agree to offer a voice local calling plan comparable to the calling plan offered by the incumbent local exchange carrier in the RDOF Census Blocks.

⁶ This requirement is fully met by compliance with the requirements of 47 C.F.R. §§ 54.202(a)(2) and 9.20 and Commission regulation 103-690.C.(a)(2).



16. As ETCs in the RDOF Census Blocks, the Joint Applicants agree that they will operate as common carriers in the RDOF Census Blocks and have the obligation of a common carrier for the provision of the supported services in such RDOF Census Blocks.
17. Subject to the provisions set forth herein and compliance with regulatory assessments such as the Dual Party Relay Fund, the South Carolina Universal Service Fund, and gross receipts, where applicable, ORS does not oppose the Joint Application of Charter Fiberlink SC-CCO, LLC and Time Warner Cable Information Services (South Carolina), LLC for designation as eligible telecommunications carriers.
18. As ETCs in the RDOF Census Blocks, the Joint Applicants will not “cream skim,” that is, target low-cost portions of a rural incumbent LEC’s service area in which uneconomically high levels of support are available.⁷
19. ORS is charged by law with the duty to represent the public interest of South Carolina. Pursuant to S.C. Code § 58-4-10(B) (Supp. 2018) ‘public interest’ means the concerns of the using and consuming public with respect to public utility services, regardless of the class of customer, and preservation of continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.
20. ORS believes the Stipulation reached among the Parties serves the public interest as defined above. The Parties agree that this Stipulation is reasonable, is in the public interest, and is in accordance with law and regulatory policy.

⁷ The Joint Applicants will be in full compliance with this requirement if within the RDOF Census Blocks they provide services consistent with applicable FCC and Commission regulations, including RDOF program requirements that carriers must “offer the required voice and broadband service to all eligible home and businesses within the awarded areas.” *Rural Digital Opportunity Fund*, Report and Order, 35 FCC Red 686 (2020) at ¶¶ 6, 12.



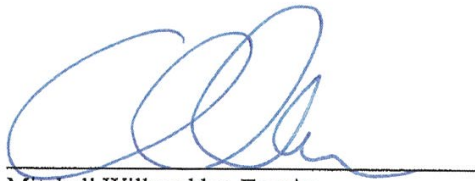
21. ORS agrees to support expedited review for the Joint Applicants as they have agreed to the terms and conditions of ETC designation. This Stipulation contains the complete agreement between the Parties regarding the Joint Application. There are no other terms or conditions to which the Parties have agreed.
22. The Parties agree to advocate that the Commission accept and approve this Stipulation in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and that the Commission take no action inconsistent with its adoption. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Stipulation be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Stipulation and the terms and conditions contained herein.
23. The Parties represent that the terms of this Stipulation are based upon full and accurate information known as of the date this Stipulation is executed. If, after execution, either Party is made aware of information that conflicts with, nullifies, or is otherwise materially different from that information upon which this Stipulation is based, either Party may withdraw from the Stipulation with written notice to the other Party.
24. The Parties agree that signing this Stipulation will not constrain, inhibit, impair or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Stipulation in its entirety, then any Party desiring to do so may withdraw from the Stipulation in its entirety without penalty or obligation.



25. This Stipulation shall be interpreted according to South Carolina law.
26. The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Stipulation by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the original signature pages combined with the body of the document constituting an original and provable copy of this Stipulation. The Parties agree that in the event any Party should fail to indicate its consent to this Stipulation and the terms contained herein, then this Stipulation shall be null and void and will not be binding on any Party.

[PARTY SIGNATURES TO FOLLOW ON SEPARATE PAGES]

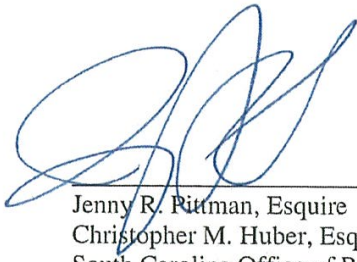




Mitchell Willoughby, Esquire
Andrew J. D'Antoni
Willoughby & Hoefer, PA
P.O. Box 8416
Columbia, SC 29202
Phone: (803) 252-3300
mwilloughby@willoughbyhoefer.com
adantoni@willoughbyhoefer.com

Attorneys for Charter Fiberlink SC-CCO, LLC and Time Warner Cable Information Services
(South Carolina), LLC





Jenny R. Pittman, Esquire
Christopher M. Huber, Esquire
South Carolina Office of Regulatory Staff
1401 Main Street, Ste. 900
Columbia, SC 29201
803-737-0794
803-737-5252
jpittman@ors.sc.gov
chuber@ors.sc.gov

Attorneys for the South Carolina Office of Regulatory Staff

